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15 *Epic Games, Inc.*

16 **UNITED STATES DISTRICT COURT**

17 **NORTHERN DISTRICT OF CALIFORNIA**

18 **OAKLAND DIVISION**

19 Case No. 4:20-cv-05640-YGR-TSH

21 EPIC GAMES, INC.,

22 Plaintiff, Counter-defendant,

23 v.

24 APPLE INC.,

25 Defendant, Counterclaimant.

**EPIC GAMES, INC.’S NOTICE OF
SUBMISSION OF AMENDED AND
REDACTED VERSIONS OF
CERTAIN EXPERT WRITTEN
DIRECT TESTIMONY AND
WITHDRAWAL OF CERTAIN
EXPERT WRITTEN DIRECT
TESTIMONY**

26 The Honorable Yvonne Gonzalez Rogers

27 Trial: May 3, 2021

28 EPIC GAMES, INC.’S NOTICE OF SUBMISSION OF CERTAIN EXPERT WRITTEN DIRECT
TESTIMONY AND WITHDRAWAL OF CERTAIN EXPERT WRITTEN DIRECT TESTIMONY

Case No. 4:20-cv-05640-YGR-TSH

1 PLEASE TAKE NOTICE that Epic Games, Inc. hereby submits for the public record
2 amended and redacted versions of the following expert written direct testimony consistent with
3 Trial Order No. 4 Re: (1) Administrative Motions to Seal; and (2) Partial Ruling on Expert
4 Objections (ECF No. 614) and the Court's emailed request of Saturday, May 8, 2021 that, to
5 the extent the factual basis for each expert's testimony has not yet been admitted, "the written
6 direct testimony will have to be redlined and redacted before it will be admitted as direct
7 testimony":

- 8 • Written Direct Testimony of Dr. David S. Evans (Ex. Expert 1), which replaces the
9 filing originally made at ECF No. 508-1 and ECF No. 509-4; and
- 10 • Rebuttal Written Direct Testimony of Dr. David S. Evans (Ex. Expert 16), which
11 replaces the filing originally made at ECF No. 508-9 and ECF No. 509-16.

12 Epic refers the public to:

- 13 • ECF No. 556-1 for the Written Direct Testimony of Ned S. Barnes, CPA (Ex.
14 Expert 2);
- 15 • ECF No. 508-3 for the Written Direct Testimony of Peter E. Rossi, Ph.D. (Ex.
16 Expert 3); and
- 17 • ECF No. 508-5 for the Written Direct Testimony of Dr. James W. Mickens (Ex.
18 Expert 5).

19 Unredacted versions of the written direct testimony will be provided to the Court by
20 email.

21 Epic defers the filing of the Written Direct Testimony of Dr. Susan Athey (Ex.
22 Expert 4) and the Rebuttal Written Direct Testimony of Michael I. Cragg, Ph.D. (Ex.
23 Expert 13) pending the resolution of Apple Inc.'s ("Apple") objection concerning the Written
24 Direct Testimony of Dr. Susan Athey (Trial Tr. 2627:1-2628:11) and Apple's Motion To Strike

1 Written and Oral Testimony of Dr. Michael I. Cragg Regarding Foreign Regulatory
2 Submissions of a Non-Party (ECF No. 657), respectively.

3 Epic reserves the right to seek to admit amended written testimony following the close
4 of evidence.

5 Epic hereby withdraws the Rebuttal Written Direct Testimony of Dr. Nancy A.
6 Mathiowetz (Ex. Expert 14), ECF Nos. 508-7 and 509-12, and the Rebuttal Written Direct
7 Testimony of Dr. Wenke Lee (Ex. Expert 15), ECF Nos. 508-8 and 509-16.

8 Dated: May 20, 2021

9 CRAVATH, SWAINE & MOORE LLP

10 Christine Varney
11 Katherine B. Forrest
12 Gary A. Bornstein
Yonatan Even
Lauren A. Moskowitz
M. Brent Byars

13 Respectfully submitted,

14 By: /s/ M. Brent Byars
15 M. Brent Byars

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17 Epic Games, Inc.*